

# CIVILIAN JURY DUTY: AS A MILITARY MEMBER



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Jury duty is an important civic duty even while we serve on active duty (AD) in the Air Force. However, today's frequent deployments and mission requirements may prevent you from serving on a civilian jury.

### State and Local Civilian Juries

Congress enacted a federal statute which provides that a member of the armed forces cannot be required to serve on a state or local jury if the Secretary of the service involved determines that jury service would **(1) unreasonably interfere with the performance of the member's duties or (2) would adversely affect the readiness of the unit, command or activity to which the member is assigned.**

Secretarial authority has been exercised and delegated in Air Force Instruction (AFI) 51-301, *Civil Litigation*, paragraph 9.26. That AFI provides that all flag or general officers, squadron commanders and above, operating forces engaged in warfare, personnel in a training status, and personnel stationed outside the US are automatically exempt from serving on a state or local jury under Federal law. Other Air Force members are exempt *if* their installation commander determines that one of the two criteria highlighted above apply.

Upon receiving a state or local jury duty summons, the member should ***immediately inform his chain of command and his unit commander will determine whether*** the member's absence for jury duty meets one of the two mission-related exceptions or one of the automatic exemptions. If the immediate commander decides that exemption is inappropriate, the member must serve jury duty. However, if one of the mission-related exemptions does apply, the unit commander will inform the

Special Court-Martial Convening Authority (at Offutt AFB this is **55 WG/CC**), who can approve the exemption in writing to the local or state court. The specific language to include in the commander's **exemption letter** for jury service is stated in **AFI 51-301, paragraph 9.27.4.**

If members do serve on a jury, they qualify for **permissive TDY** and should not be charged leave or lose pay. All fees and stipends earned by the member from their jury service must be turned over to the U.S. Treasury. However, members may receive reimbursement from the state or local jury authority for expenses incurred in performing jury duty, such as transportation costs or parking fees.

### Federal Civilian Juries

Federal law excludes all AD service members from serving on federal juries. 28 U.S.C. §1863(b)(6). Members who receive a Federal jury summons can notify the court of their AD status and be relieved of their jury service without command involvement.

*This handout is only intended to give general information, and not be used as a substitute for legal advice from a legal assistance attorney.*

### Resources:

- 28 U.S.C. §1863(b)(6).
- 10 U.S.C. §982.
- DODD 5525.8, para. 6.3, 13 June 1988, certified as current 21 November 2003.
- AFI 31-501, *Civil Litigation*, paras. 9.26, 9.27, 1 July 2002, incorporating changes through 24 May 2012.